

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

UNITED FOOD AND COMMERCIAL
WORKERS UNION,
Individually and On Behalf of All Others
Similarly Situated,

Plaintiff,

-against-

CHESAPEAKE ENERGY CORPORATION,
AUBREY K. MCCLENDON, MARCUS C.
ROWLAND, MICHAEL A. JOHNSON,
RICHARD K. DAVIDSON, FRANK A.
KEATING, BREENE M. KERR, CHARLES T.
MAXWELL, MERRILL A. MILLER, JR.,
DONALD L. NICKLES, FREDERICK B.
WHITTEMORE, UBS INVESTMENT BANK,
ABN AMRO, BANC OF AMERICA
SECURITIES LLC and WELLS FARGO
SECURITIES,

Defendants.

Civil Action No. 5:09-CV-1114

CLASS ACTION

**CHESAPEAKE ENERGY AND
INDIVIDUAL DEFENDANTS'
NOTICE OF MOTION AND
MOTION TO DISMISS AMENDED
COMPLAINT**

NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that defendants Chesapeake Energy Corporation, Aubrey K. McClendon, Marcus C. Rowland, Michael A. Johnson, Richard K. Davidson, Frank A. Keating, Breen M. Kerr, Charles T. Maxwell, Merrill A. Miller, Jr., Donald L. Nickles, and Frederick B. Whittemore (collectively, “Company defendants”) hereby move to dismiss the Amended Complaint for Violation of the Federal Securities laws (“Complaint”).

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Company defendants seek an order dismissing the Amended Complaint in its entirety and with prejudice.

The Motion to Dismiss is based on the Complaint’s failure to state a claim under Sections 11, 12 and 15 of the Securities Act of 1933. As set forth by the Supreme Court in *Twombly* and *Iqbal*, the Complaint lacks the requisite factual allegations to state a claim to relief that is plausible on its face. Further, the Complaint’s allegations of loss causation are refuted by the face of the Complaint and by publicly available facts.

The Motion to Dismiss is further based on the Notice of Motion and Motion, the supporting memorandum of points and authorities, the Request for Judicial Notice in Support of the Motion to Dismiss the Amended Complaint and all exhibits attached thereto, all pleading and papers on file in this action, oral argument counsel, if allowed, and any other matters that may be submitted to or considered by the Court.

STATEMENT OF ISSUES:

1. Whether the Court should dismiss the Complaint for failing to state a claim under Sections 11, 12 and 15 of the Securities Act of 1933.

Date: November 16, 2009

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/s/ M. Todd Scott

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